



Senate

General Assembly

File No. 464

January Session, 2009

Substitute Senate Bill No. 995

Senate, April 6, 2009

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING BENEFICIAL REUSE, RECYCLING, ILLEGAL DUMPING AND MUNICIPAL DEMONSTRATION PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-209f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) The Commissioner of Environmental Protection may issue a
4 general permit for a category of processing or beneficial use of solid
5 waste when used in a manufacturing process to make a product or as
6 an effective substitute for a commercial product, provided: (1) Such
7 permit does not allow an activity for which an individual permit has
8 been issued; (2) the issuance of the general permit is not inconsistent
9 with the requirements of the federal Resource Conservation and
10 Recovery Act; (3) the solid wastes included in the category are
11 proposed for the same or substantially similar operations and have the
12 same or similar physical character and chemical composition; (4) the
13 solid wastes included in the category are proposed for the same or
14 substantially similar beneficial use or processing activities; and (5) the

15 commissioner finds that the activities in the category can be
16 adequately regulated using standardized conditions without harming
17 or presenting a threat of harm to public health and safety or the
18 environment. [The commissioner's authority to issue a general permit
19 shall not apply to the reuse of hazardous waste as defined in section
20 22a-115.] The issuance of the general permit shall be governed by
21 procedures established in subsection [(q)] (i) of section 22a-208a. The
22 general permit may require any person or municipality proposing to
23 conduct any activity under a general permit to register such activity on
24 a form prescribed by the commissioner.

25 (b) (1) The commissioner may issue individual authorizations for
26 the beneficial use of solid waste in a manufacturing process to make a
27 product or as an effective substitute for a commercial product
28 provided (A) such authorization does not allow an activity for which
29 an individual or general permit has been issued, (B) such authorization
30 is not inconsistent with the requirements of the federal Resource
31 Conservation and Recovery Act (42 USC 6901 et seq.), and (C) the
32 commissioner finds that such solid waste can be reused without
33 harming or presenting a threat of harm to public health, safety or the
34 environment.

35 (2) The commissioner shall establish guidelines protective of public
36 health, safety and the environment for authorizations made in
37 accordance with this subsection and shall give public notice on the
38 Department of Environmental Protection's Internet web site of such
39 guidelines, or any subsequent revision of the guidelines, with an
40 opportunity for submission of written comments by interested persons
41 for a period of thirty days following the publication of the notice. The
42 commissioner shall post a response to any comments received on the
43 Department of Environmental Protection's Internet web site.

44 (3) An applicant for such authorization shall submit information on
45 forms prescribed by the commissioner and any additional information
46 required by the commissioner. The commissioner may direct the
47 applicant to pay a fee of not more than five thousand dollars at the

48 time of application, in accordance with the guidelines established
49 under subdivision (2) of this subsection, except that no such fee shall
50 be charged to a municipality.

51 (4) Notwithstanding section 22a-208a, as amended by this act, or
52 any regulations adopted pursuant to section 22a-209, the issuance or
53 renewal of an authorization under this subsection, or a modification of
54 an authorization under this subsection if such modification is sought
55 by the holder of an authorization, shall conform to the following
56 procedures: (A) The commissioner shall publish a notice of intent to
57 issue an authorization on the Department of Environmental
58 Protection's Internet web site. Such notice shall include: (i) The name
59 and mailing address of the applicant and the address of the location of
60 the proposed activity; (ii) the application number; (iii) the tentative
61 decision regarding the application; (iv) the type of authorization
62 sought, including a reference to the applicable statute or regulation; (v)
63 a description of the location of the proposed activity and any natural
64 resources affected thereby; (vi) the name, address and telephone
65 number of any agent of the applicant from whom interested persons
66 may obtain copies of the application; (vii) the length of time available
67 for submission of public comments to the commissioner; and (viii)
68 such additional information as the commissioner deems necessary to
69 comply with any provision of this title or regulations adopted
70 pursuant to this title, or with the federal Clean Air Act, federal Clean
71 Water Act or federal Resource Conservation and Recovery Act. There
72 shall be a comment period of thirty days following the publication of
73 such notice during which interested persons may submit written
74 comments to the commissioner. (B) The commissioner shall post a
75 response to any comments received on the Department of
76 Environmental Protection's Internet web site. (C) The commissioner
77 may approve or deny such authorization based upon a review of the
78 submitted information. Any authorization issued pursuant to this
79 section shall define clearly the activity covered by such authorization
80 and may include such conditions or requirements as the commissioner
81 deems appropriate, including, but not limited to, operation and
82 maintenance requirements, management practices, reporting

83 requirements and a specified term.

84 (5) The commissioner may suspend or revoke an authorization and
85 may modify an authorization if such modification is not sought by the
86 holder of an authorization, in accordance with the provisions of section
87 4-182 and the applicable rules of practice adopted by the department.

88 Sec. 2. Section 22a-241b of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2009*):

90 (a) On or before February 1, 1988, the Commissioner of
91 Environmental Protection shall adopt regulations in accordance with
92 the provisions of chapter 54 designating items that are required to be
93 recycled. The commissioner may designate other items as suitable for
94 recycling and amend said regulations accordingly.

95 (b) Any [item designated for recycling pursuant to subsection (a) of
96 this section] recyclable item shall be recycled by a municipality within
97 three months of the establishment of service to such municipality by a
98 regional processing center or local processing system.

99 (c) [On and after January 1, 1991, (1) each] (1) Each person who
100 generates solid waste from residential property shall, in accordance
101 with subsection (f) of section 22a-220, separate from other solid waste
102 [the] all recyclable items, [designated for recycling pursuant to
103 subsection (a) of this section] and (2) every other person who generates
104 solid waste shall, in accordance with subsection (f) of section 22a-220,
105 make provision for and cause the separation from other solid waste of
106 [the] all recyclable items. [designated for recycling pursuant to
107 subsection (a) of this section] Each person described in subdivisions (1)
108 and (2) of this subsection shall separate any recyclable items by placing
109 all such items in a collection receptacle that is separate from any
110 receptacle containing other solid waste. No person shall combine
111 previously separated recyclable items with other solid waste.

112 (d) On and after October 1, 2009, no person shall enter into a
113 contract for the collection of solid waste without also making provision

114 for the collection of recyclable items. Any person offering solid waste
115 or recyclable item collection services shall provide each customer with
116 clear written instructions concerning the separation of recyclable items
117 as provided in subsection (c) of this section.

118 (e) For the purposes of this section, "recyclable item" means an item
119 designated for recycling in accordance with subsection (a) of this
120 section.

121 Sec. 3. Section 22a-248 of the general statutes is repealed and the
122 following is substituted in lieu thereof (*Effective October 1, 2009*):

123 As used in sections 22a-247 to 22a-249, inclusive, 22a-250, as
124 amended by this act, and 22a-251:

125 (1) "Commissioner" means the Commissioner of Environmental
126 Protection or his designated agent, as defined in subsection (b) of
127 section 22a-2;

128 (2) "Department" means the Department of Environmental
129 Protection;

130 (3) "Person" means person, as defined in subsection (c) of section
131 22a-2;

132 (4) "Litter" means any discarded, used or unconsumed substance or
133 waste material, whether made of aluminum, glass, plastic, rubber,
134 paper, or other natural or synthetic material, or any combination
135 thereof, including, but not limited to, any bottle, jar or can, or any top,
136 cap or detachable tab of any bottle, jar or can, any unlighted cigarette,
137 cigar, match or any flaming or glowing material or any garbage, trash,
138 refuse, debris, rubbish, grass clippings or other lawn or garden waste,
139 newspaper, magazines, glass, metal, plastic or paper containers or
140 other packaging or construction material which has not been deposited
141 in a litter receptacle;

142 (5) "Litter bag" means a bag, sack or other container made of any
143 material which is large enough to serve as a receptacle for litter inside

144 a motor vehicle or watercraft of any person and is not necessarily
145 limited to the state recommended litter bag but shall be similar in size
146 and capacity;

147 (6) "Litter receptacle" means a receptacle suitable for the depositing
148 of litter;

149 (7) "Vehicle" includes every device capable of being moved upon a
150 public highway and in, upon or by which any person or property is or
151 may be transported or drawn upon a public highway, except devices
152 moved by human or animal power or used exclusively upon stationary
153 rails or tracks;

154 (8) "Watercraft" means any boat, ship, vessel, barge or other floating
155 craft;

156 (9) "Public place" means any area that is used or held out for use by
157 the public whether owned or operated by public or private interests;

158 (10) "Recycling" means the process of sorting, cleansing, treating
159 and reconstituting waste or other discarded material for the purpose of
160 using the altered form;

161 (11) "Recycling center" means any facility at which recyclable
162 material is processed or stored, separated or prepared for reuse or
163 resale;

164 (12) "Dump" means to discard (A) more than one cubic foot in
165 volume of litter at one time or (B) furniture, garbage bags or contents
166 thereof or other similar materials. [Material which has been placed at a
167 location with an intent to leave it indefinitely at such location, or
168 material which has not been removed from a location within forty-five
169 days, is deemed discarded.]

170 Sec. 4. Section 22a-250 of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective October 1, 2009*):

172 (a) No person shall throw, scatter, spill or place or cause to be

173 blown, scattered, spilled, thrown or placed, or otherwise dispose of
174 any litter (1) upon any public property in the state, (2) upon any public
175 land in the state, (3) upon any private property in this state, [not
176 owned by such person,] or (4) in the waters of this state, including, but
177 not limited to, any public highway, public park, beach, campground,
178 forest land, recreational area, mobile manufactured home park,
179 highway, road, street or alley except: (A) When such property is
180 designated by the state or any political subdivision thereof for the
181 disposal of garbage and refuse, and such person is authorized to use
182 such property for such purpose; or (B) into a litter receptacle in such a
183 manner that the litter will be prevented from being carried away or
184 deposited by the elements upon any part of said private or public
185 property or waters. For the purposes of this subsection, "public land"
186 means a state park, state forest or municipal park or any other
187 publicly-owned land that is open to the public for active or passive
188 recreation.

189 (b) (1) Any person who violates any provision of subsection (a) of
190 this section shall be fined not more than one hundred ninety-nine
191 dollars. One-half of any fine collected pursuant to this subsection shall
192 be payable to the state and one-half of such fine shall be payable to the
193 municipality in which the arrest was made unless the arrest was made
194 by a conservation officer, special conservation officer or patrolman
195 appointed by the Commissioner of Environmental Protection under
196 authority of section 26-5, in which case one-half of such fine shall be
197 payable to the Department of Environmental Protection.

198 (2) Whenever any person is convicted of a violation of subdivision
199 (2) of subsection (a) of this section, the court shall, in addition to
200 imposing the fine authorized by subdivision (1) of this subsection,
201 impose a surcharge in an amount equal to fifty per cent of such fine.
202 Any such surcharge collected pursuant to this subdivision shall be
203 payable to the municipality in which the arrest was made unless the
204 arrest was made by a conservation officer, special conservation officer
205 or patrolman appointed by the Commissioner of Environmental
206 Protection under authority of section 26-5, in which case such

207 surcharge shall be payable to the Department of Environmental
208 Protection.

209 (3) When any such material or substances are thrown, blown,
210 scattered or spilled from a vehicle, the operator thereof shall be
211 deemed prima facie to have committed such offense.

212 (c) No person shall dump, as defined in subdivision (12) of section
213 22a-248, as amended by this act, for financial gain, including the
214 avoidance of disposal costs, any material originating from another
215 property upon any public or private property in the state [or upon
216 private property in this state not owned by such person] except when
217 (1) such property is designated by the state or any political subdivision
218 thereof for dumping or such property is a licensed facility for such
219 purpose, and (2) such person is authorized to use such property. It
220 shall not be a defense under this subsection that the dumping occurred
221 with the permission of the property owner or on such person's own
222 property. The commissioner or the municipality in which such
223 dumping occurs may, upon complaint or on their own initiative,
224 investigate any violation of this subsection. Material that has been
225 placed at a location with an intent to leave it indefinitely at such
226 location, or material that has not been removed from a location within
227 forty-five days, shall be deemed discarded.

228 (d) No person shall dump, as defined in this subsection, for financial
229 gain, including the avoidance of disposal costs, any material
230 originating from another property upon any public or private property
231 in the state [or upon private property in this state not owned by such
232 person] except when (1) such property is designated by the state or
233 any political subdivision thereof for dumping or such property is a
234 licensed facility for such purpose, and (2) such person is authorized to
235 use such property. The commissioner or the municipality in which
236 such dumping occurs may, upon complaint or on their own initiative,
237 investigate any violation of this subsection. It shall not be a defense
238 under this subsection that the dumping occurred with the permission
239 of the property owner or on such person's own property. Material that

240 has been placed at a location with an intent to leave it indefinitely at
241 such location, or material that has not been removed from a location
242 within forty-five days shall be deemed discarded unless (A) such
243 material consists of material originating from an on-site residential
244 activity that is being staged or stored for future reuse or for recycling
245 at a permitted solid waste facility, as defined in section 22a-207; (B) the
246 person who placed such material at the location has notified the
247 commissioner of such placement; and (C) the commissioner has not
248 prohibited such placement. As used in this subsection "dump" means
249 to discard automobiles or automobile parts, large appliances, tires,
250 bulky waste, hazardous waste, as defined in section 22a-115, or any
251 other similar material.

252 (e) If the commissioner, after investigation, finds that there has been
253 a violation of subsection (c) or (d) of this section, [he] the commissioner
254 may issue an order pursuant to section 22a-225 to remove material
255 dumped in violation of said subsection (c) or (d) to a solid waste
256 facility approved by the commissioner.

257 (f) (1) If the chief elected official of a municipality, after
258 investigation, finds that there has been a violation of subsection (c) or
259 (d) of this section, [he] such official may send a notice to the owner of
260 the property where such violation has occurred by certified mail,
261 return receipt requested, to the address of record for property tax
262 purposes. Such notice shall include (A) a reference to the statute
263 alleged to have been violated; (B) a short and plain statement of the
264 matter asserted or charged; (C) a demand that such property owner
265 remove any material dumped in violation of subsection (c) or (d) of
266 this section to a solid waste facility approved by the commissioner;
267 and (D) a statement that such property owner has the right to a
268 hearing to contest the chief elected official's finding and the date, time
269 and place for the hearing. Such hearing shall be fixed for a date not
270 later than ten days after the notice is mailed. The hearing shall be
271 completed within fifteen days after such hearing commences and a
272 decision shall be rendered within ten days of the completion of such
273 hearing.

274 (2) The chief elected official or [his] a designee shall hold a hearing
275 upon the alleged violation unless such property owner fails to appear
276 at the hearing. If such property owner fails to appear at the hearing or
277 if, after the hearing, the chief elected official or [his] a designee finds
278 that material has been dumped on such owner's property in violation
279 of subsection (c) or (d) of this section and such property owner has not
280 removed such material to a solid waste facility approved by the
281 commissioner, the official may order that such property owner within
282 thirty days remove such material to a solid waste facility approved by
283 the commissioner. The official shall send a copy of any order issued
284 pursuant to this subdivision by certified mail, return receipt requested,
285 to such property owner. The person may appeal from an order of the
286 chief elected official of a municipality under this subdivision in
287 accordance with the provisions of section 8-8.

288 (3) If the owner fails to remove such material within thirty days
289 from the date of the order issued by the chief elected official under
290 subdivision (2) of this subsection, and no appeal of such order has
291 been taken in accordance with section 8-8, the municipality may enter
292 such property and remove such material to a solid waste facility
293 approved by the commissioner.

294 (4) The provisions of this subsection shall not apply to any
295 corporation subject to taxation under chapter 210.

296 (g) No property owner shall be ordered to remove dumped material
297 by the commissioner or the chief elected official of a municipality
298 pursuant to subsection (e) or (f) of this section unless (1) the
299 commissioner or the chief elected official, as the case may be, finds that
300 the property owner has dumped such material, or knowingly allowed
301 another person to dump such material, in violation of subsection (c) or
302 (d) of this section or (2) the commissioner or the chief elected official,
303 as the case may be, has determined that there is no reasonable
304 opportunity to compel the responsible party to remove the material or
305 pay the costs of such removal.

306 (h) Any person who violates subsection (c) or (d) of this section shall

307 be liable for a civil penalty of not less than one thousand dollars, nor
308 more than ten thousand dollars for each day such violation continues.
309 The Superior Court, in an action brought by the municipality or by the
310 Attorney General on the request of the commissioner, shall have
311 jurisdiction to issue an order to such person directing the removal of
312 the material to a solid waste facility approved by the commissioner. If
313 the court finds that the violation was wilful, it may impose a civil
314 penalty equivalent to three times the cost of remediation of the
315 violation in addition to other applicable civil penalties. The court may
316 also order that a violator shall pay restitution to a landowner which
317 the court finds has suffered damages as a result of the violation. All
318 such actions shall have precedence in the order of trial as provided in
319 section 52-191. Any such action by the Attorney General shall be
320 brought in the superior court for the judicial district of Hartford. Any
321 vehicle used by any person in violation of subsection (d) may be
322 forfeited in accordance with section 22a-250a.

323 Sec. 5. Subsection (j) of section 22a-208a of the general statutes is
324 repealed and the following is substituted in lieu thereof (*Effective*
325 *October 1, 2009*):

326 (j) [The] Notwithstanding any other provision of this chapter, the
327 Commissioner of Environmental Protection may issue an approval for
328 a demonstration project for any activity regulated by the commissioner
329 under this chapter to a municipality or municipal electric energy
330 cooperative organized under chapter 101a, provided the commissioner
331 determines that such demonstration project (1) is necessary to research,
332 develop or promote methods and technologies of solid waste
333 management which are consistent with the goals of the state solid
334 waste management plan; (2) does not pose a significant risk to human
335 health or the environment; and (3) is not inconsistent with the federal
336 Water Pollution Control Act, the federal Rivers and Harbors Act, the
337 federal Clean Air Act or the federal Resource Conservation and
338 Recovery Act. An application for such approval shall be on a form
339 prescribed by the commissioner, be accompanied by a fee of one
340 thousand dollars and shall provide such information as the

341 commissioner deems necessary. Any person applying for such
 342 approval shall not commence the project prior to the commissioner's
 343 written approval. The commissioner may impose conditions upon and
 344 limit the term of such approval as deemed necessary to adequately
 345 protect human health and the environment or to ensure project success
 346 and such approval shall be valid for a period of not more than two
 347 years. The commissioner may renew such approval. [provided the
 348 total period of approval does not exceed five years.] The commissioner
 349 may order summary suspension of any such approval in accordance
 350 with subsection (c) of section 4-182. Notwithstanding the renewal
 351 process, any person may seek, or the commissioner may require, that
 352 the project obtain a general or individual permit pursuant to this
 353 chapter.

354 Sec. 6. Section 22a-210 of the general statutes is repealed and the
 355 following is substituted in lieu thereof (*Effective October 1, 2009*):

356 The commissioner may acquire necessary property and equipment,
 357 or interests therein, and contract for the construction, including
 358 planning and design, and leasing, operation and maintenance of
 359 demonstration resource recovery systems or improved solid waste
 360 facilities, or both, on a local, regional or state-wide basis by private
 361 enterprise, a municipality, municipal electric energy cooperative
 362 organized under chapter 101a or regional authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-209f
Sec. 2	<i>October 1, 2009</i>	22a-241b
Sec. 3	<i>October 1, 2009</i>	22a-248
Sec. 4	<i>October 1, 2009</i>	22a-250
Sec. 5	<i>October 1, 2009</i>	22a-208a(j)
Sec. 6	<i>October 1, 2009</i>	22a-210

ENV Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Environmental Protection	EQ - Potential Revenue Gain	Minimal	Minimal

Note: EQ=Environmental Quality Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Potential Revenue Gain	Potential Minimal	Potential Minimal

Explanation

The bill would result in a revenue gain to the Environmental Quality (EQ) fund since it establishes a new application fee of not more than \$5,000 for those applying for individual authorizations of beneficial use of solid waste in a manufacturing process. Municipalities are exempt from this fee. It cannot be anticipated how many new applications would be authorized.

The EQ Fund balance for FY 08 was \$34.3 million. The EQ fund is used to fund a variety of activities in support of environmental quality programs, especially those related to permit issuance, monitoring, and enforcement and is funded mainly through permit and license fees.

The bill could also result in a minimal revenue gain to the General Fund and/or municipalities since it creates a fine of \$199 for littering on one's own property. Under certain circumstances, the state would retain half (about \$100 of each violation) of the revenue generated from this fine while the municipality in which the violation occurred would retain the other half of the revenue.

In FY 08, DEP collected \$1.9 million for the General Fund from fines and penalties. As of 3/16/09 (FY 09), there has been about \$990,000 deposited into the General Fund¹ from fines and penalties.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of new applications for the beneficial use of solid waste in a manufacturing process submitted to the agency and subject to the number of penalties imposed for littering.

¹ Revenue collected from fines and penalties range from fiscal year to fiscal year; some years this revenue may be as high as \$5.0 million while other years this revenue is less than \$1.0 million.

OLR Bill Analysis**sSB 995*****AN ACT CONCERNING BENEFICIAL REUSE, RECYCLING,
ILLEGAL DUMPING AND MUNICIPAL DEMONSTRATION
PROJECTS.*****SUMMARY:**

This bill makes it illegal to (1) dump items from one property onto another, including one's own, to avoid disposal costs, and (2) litter on one's own property.

It allows the Department of Environmental Protection (DEP) commissioner to authorize beneficial uses of solid waste for which there is no individual or general permit.

It (1) requires both residential and non-residential solid waste generators to separate recyclables from solid waste by placing them in separate collection bins and (2) bars anyone from combining previously separated recyclables with solid waste.

By law, the DEP commissioner may approve demonstration projects for solid waste management activities she regulates. The bill specifically allows her to issue these approvals to municipalities and municipal electric energy cooperatives.

EFFECTIVE DATE: October 1, 2009

ILLEGAL LITTERING AND DUMPING***Littering on One's Own Property***

It is currently illegal to dispose of litter (see BACKGROUND) on public land, public property, state waters, or on private property other than that owned by the person discarding the litter. The bill makes it illegal to litter on one's own property. As under current law, a violator may be fined up to \$199.

Dumping Items on One's Own Property

By law, dumping means discarding (1) more than one cubic foot of litter at once or (2) furniture, garbage bags or their contents, or similar material. Material placed at a location with the intent to leave it there indefinitely, or material not removed from a location in 45 days, is deemed discarded.

Under current law, it is illegal to dump material on public property, or on the private property of another, unless (1) the state or a political subdivision has designated the property for dumping, or it is licensed for that purpose, and (2) the person dumping the material is authorized to use the property.

The bill makes it illegal to dump, for financial gain, material originating on one property onto any other public or private property, including one's own, unless the above exceptions apply. Under the bill, financial gain includes avoiding the costs of properly disposing of the material.

By law, the person who dumped material cannot claim as a defense that he had the permission of the owner of the property where the dumping occurred. The bill also prohibits the person who dumped the material from claiming as a defense that he or she dumped the material on his or her own property.

Dumping Discarded Cars, Car Parts, Large Appliances, Tires, Bulky Waste, or Hazardous Waste

By law, it is illegal to dump discarded cars, car parts, large appliances, tires, bulky waste, and hazardous waste on public property, or on the private property of another, unless (1) the state or a political subdivision designed the property for dumping, or it is licensed for that purpose, and (2) the person dumping the material is authorized to use the property.

The bill makes it illegal, unless the above exceptions apply, to dump this material on any public or private property, including one's own, if it originates on another site, and is dumped for financial gain,

including avoiding disposal costs.

Under the bill, cars, car parts, large appliances, tires, and bulky and hazardous waste are deemed discarded, if they have been placed at a location with the intent to leave it there indefinitely, or have not been removed from a location in 45 days, unless:

1. the material originated from an on-site residential activity and is being staged or stored for reuse or recycling at a permitted solid waste facility; and
2. the person who placed the material there notified the commissioner, and she has not prohibited its placement.

By law, the person who dumped the material cannot claim as a defense that he or she had the permission of the owner of the property. The bill also prohibits the person from claiming as a defense that he or she dumped the material on his or her own property.

Penalties for Illegal Dumping

By law, unchanged by the bill, the DEP commissioner or a municipality may investigate alleged illegal dumping. A municipal chief elected official who finds a violation has occurred may notify the property owner of the violation by certified mail, return receipt requested. Notice must include (1) reference to the law alleged to have been violated, (2) a short and plain statement of the matter asserted or charged, (3) a demand that the property owner remove illegally dumped material to an approved solid waste facility, and (4) a statement that the property owner has the right to a hearing.

As under current law, violators are liable for a civil penalty of between \$1,000 and \$10,000 for each day of the violation. A Superior Court judge may order the violator to bring the illegally dumped material to a solid waste facility. The court may impose a penalty of three times the cost of cleaning up the dumped material if it finds the violation was willful and may order the violator to pay restitution to a landowner who has suffered damage because of the illegal dumping.

BENEFICIAL USE AUTHORIZATION

Beneficial use is the use or reuse of processed municipal waste for a purpose that does not harm or threaten public health, safety, welfare, or the environment.

Under current law, the DEP commissioner may not issue a general permit for the reuse of hazardous waste (see BACKGROUND). The bill allows her to do so.

It allows her to issue an individual authorization for the processing or beneficial use of solid waste in manufacturing, or as an effective substitute for a commercial product, if the authorization (1) does not allow an activity for which DEP has issued an individual or general permit and (2) is consistent with the requirements of the federal Resource Conservation and Recovery Act. The commissioner must also find that the solid waste can be reused without harming or threatening harm to the public health, safety, or the environment.

The commissioner must establish guidelines to protect public health, safety, and the environment for these authorizations, and provide notice to the public on the DEP's website of the guidelines and subsequent revisions. She must provide the public the opportunity to submit written comments for 30 days after publishing the notice. She must post on the website a response to any comments she receives.

A person seeking an authorization must supply the information the commissioner requires on a DEP form. The commissioner may require the applicant to pay an application fee of up to \$5,000. The bill exempts municipalities from the fee.

Procedures

The bill requires, regardless of solid waste facility permitting laws and regulations, that certain procedures apply to the (1) issuance or renewal of an authorization or (2) modification of an authorization, if the modification is requested by the authorization holder.

The commissioner must publish, on the DEP website, notice of her

intention to issue an authorization. This apparently also applies to authorization renewals or modifications. The notice must include:

1. the applicant's name and mailing address;
2. the address where the proposed activity would take place;
3. the application number;
4. the tentative decision on the application;
5. the type of authorization sought, referring to the applicable law or regulation;
6. a description of the location of the proposed activity and any affected natural resources;
7. the name, address, and telephone number of anyone representing the applicant from whom people may obtain copies of the application;
8. the length of time available for the public to submit comments to the commissioner; and
9. any additional information the commissioner believes necessary to comply with applicable state law or the federal Clean Air, Clean Water and Resource Conservation and Recovery acts.

There must be a 30-day written public comment period following publication of the notice. The commissioner must post on the DEP website her response to any comment received. She may approve or deny the authorization after reviewing the submitted information. Any authorization she issues must clearly define the activity it covers, and may include conditions or requirements the commissioner believes appropriate, including (1) operating and maintenance requirements, (2) management practices, (3) reporting requirements, and (4) a specified term.

The commissioner may suspend or revoke an authorization. She

may modify an authorization, according to the Uniform Administrative Procedures Act and DEP's rules of practice, if the authorization holder does not seek modification.

SEPARATING RECYCLABLES FROM SOLID WASTE

Current law requires homeowners to separate recyclable items from other solid waste. It requires all others who generate solid waste to provide for this separation. The bill specifies that non-residential generators must separate recyclables and solid waste, as well as provide for their separation.

It requires people who generate both residential and non-residential solid waste to place recyclables and solid waste in separate collection receptacles. It prohibits anyone from combining previously separated recyclables with other solid waste.

It bars, starting October 1, 2009, anyone from contracting for the collection of solid waste without also providing for the collection of recyclables. Anyone offering collection services for either recyclables or solid waste must provide each customer with clear, written, instructions concerning the separation of recyclables and solid waste.

DEMONSTRATION PROJECTS FOR MUNICIPAL ELECTRIC ENERGY COOPERATIVES

The law authorizes the DEP commissioner to approve demonstration projects for solid waste management activities she regulates if she makes certain findings. The bill specifically authorizes her, regardless of other solid waste management laws, to issue a demonstration project approval to a municipality or a municipal electric energy cooperative. She must make the same findings as under current law. It appears municipalities are eligible for these approvals under current law.

By law, she may impose any conditions she believes necessary to adequately protect human health and the environment or to ensure the project's success. The initial approval is valid for up to two years, with a total approval limit of five years. The bill allows the commissioner to

renew the approval, but eliminates the five-year limit, instead authorizing the commissioner to set a term limit she believes is necessary to protect human health and the environment or ensure the success of the project.

By law, the commissioner may acquire needed property and equipment, and contract to build, plan, design, lease, operate, and maintain demonstration resources recovery systems or improved solid waste facilities on a local, regional, or statewide basis by private enterprise, a municipality, or regional authority. The bill also allows her to do this for a municipal electric energy cooperative.

BACKGROUND

Litter

By law, litter means any discarded, used, or unconsumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination. It includes any bottle, jar, or can; or any top, cap or detachable tab of any bottle, jar, or can; any unlighted cigarette, cigar, match or any flaming or glowing material; any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste; newspaper, or magazines, glass, metal, plastic or paper containers; or other packaging or construction material that has not been deposited in a litter receptacle (CGS § 22a-248 (4)).

Municipal Electric Energy Cooperative

By law, a municipal electric energy cooperative means a separate legal entity created by concurrent resolutions of two or more municipal electric utilities to acquire, build, reconstruct, operate, repair, extend, or improve electric power generation or transmission facilities, or acquire an interest therein or any capacity thereof (CGS § 7-233b).

Federal Environmental Laws

The Water Pollution Control Act, or Clean Water Act (33 USC § 1251) and the Clean Air Act (42 USC § 7401) regulate the discharge of

pollutants to water and air, respectively. The Resource Conservation and Recovery Act (RCRA) (42 USC § 6901) is the primary federal law governing the disposal of solid and hazardous waste.

Related Bill

HB 6554, reported favorably by the Environment Committee, prohibits trash collectors from requiring residents to contract for both the collection of solid waste and recyclables in certain instances.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/20/2009)